CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 8, 2006

S. 2389
Protecting Consumer Phone Records Act

As ordered reported by the Senate Committee on Commerce, Science, and Transportation on March 30, 2006

SUMMARY

S. 2389 would prohibit obtaining or selling the personal information of telecommunications customers—including phone records—without the customer's consent. The bill also would require telecommunications carriers to take precautions to safeguard customers' personal information and to notify customers whenever there is a breach in the security of this information. Under S. 2389, the Federal Communications Commission (FCC) and the Federal Trade Commission (FTC) would enforce restrictions and requirements related to the security of this information, including assessing and collecting civil penalties for violations of the bill's provisions. Finally, the FCC and the FTC would conduct an outreach campaign to inform consumers of the security issues involving telecommunications information. Assuming appropriation of the necessary amounts, CBO estimates that implementing the bill would cost less than $500,000 in 2006 and about $10 million over the 2007-2011 period.

Enacting S. 2389 could increase federal revenues and direct spending as a result of the collection of additional civil, criminal, and forfeiture penalties assessed for violations of the new laws and regulations. Collections of civil penalties and forfeiture penalties are recorded in the budget as revenues. Collections of criminal penalties are recorded in the budget as revenues, deposited in the Crime Victims Fund, and later spent. CBO estimates, however, that any additional revenues and direct spending that would result from enacting the bill would not be significant because of the relatively small number of cases likely to be involved.

S. 2389 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates costs to state, local, and tribal governments, if any, would be small and would not exceed the threshold established in UMRA ($64 million in 2006, adjusted annually for inflation).

S. 2389 would impose new private-sector mandates, as defined in UMRA, on telecommunications carriers and providers of Internet protocol (IP)-enabled voice service. The bill would require the FCC to prescribe more stringent confidentiality requirements for customer proprietary network information and require telecommunications carriers and IP-enabled voice service providers to certify on an annual basis that they are in compliance with those regulations. Additionally, the bill would require such providers to notify customers on a timely basis if their customer information has been disclosed, and prohibit wireless telephone providers from listing subscribers' numbers in any directory assistance database or written directory without prior authorization. The costs of several mandates depend on regulations that have not been established; therefore, CBO cannot determine whether the costs of the mandates in the bill would exceed the annual threshold for private-sector mandates ($128 million in 2006, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 2389 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit). For this estimate, CBO assumes that the bill will be enacted in 2006 and that the necessary amounts will be appropriated for each year. Based on information from the FTC and the FCC, CBO estimates that implementing the bill would cost each agency less than $250,000 in 2006 and about $5 million over the 2007-2011 period. In total, CBO estimates that implementing the bill would cost less than $500,000 in 2006 and about $10 million over the 2007-2011 period for the FCC and the FTC to enforce the bill's provisions regarding the personal information of telecommunications customers.

	By Fiscal Year, in Millions of Dollars					
	2006	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	*	2	2	2	2	2
Estimated Outlays	*	2	2	2	2	2

NOTE: * = Less than $500,000.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

Provisions in section 7 would require State Attorneys General to notify the FTC and the FCC of any action taken under the bill, allow either federal agency to intervene in those actions, and limit the actions that Attorneys General may take in certain circumstances. Also, provisions in sections 4 and 8 would preement state laws regarding the protection and disclosure of certain phone records. Those provisions constitute intergovernmental mandates as defined in UMRA. CBO estimates that the aggregate costs, if any, to state, local, and tribal governments of complying with the mandates in the bill would be small and would not exceed the threshold established in UMRA ($64 million in 2006, adjusted for inflation).

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 2389 would impose new private-sector mandates, as defined in UMRA, on telecommunications carriers and IP-enabled voice service providers. As the cost of many of the provisions in the bill depend on the rules to be prescribed by the FCC, CBO cannot determine whether the costs of the mandates in the bill would exceed the annual threshold for private-sector mandates ($128 million in 2006, adjusted annually for inflation).

Section 3 of the bill would require the FCC to prescribe regulations adopting more stringent confidentiality procedures for protecting customer proprietary network information. The FCC regulations would require telecommunications carriers and IP-enabled voice service providers to:

- Protect the security and confidentiality of customer proprietary network information;

- Certify annually that they are in compliance with the current FCC regulations on protecting customer proprietary information; and

- Notify a customer within 14 days if their information was disclosed in violation of FCC regulations.

According to government sources, some of the requirements are currently practiced by the telecommunications industry. In addition, according to industry sources the direct cost for carriers to comply with these new notification requirement would be nominal. The cost of providing such additional security would depend on the rules to be prescribed by the FCC. Since the regulations have not been established, CBO cannot estimate the direct cost to comply with those mandates.

Additionally, the bill would prohibit wireless communications providers from including their customers' wireless phone numbers in any wireless directory assistance service database or written directory without prior authorization. According to industry sources, wireless communications providers have not made this service available, however, some carriers may be exploring this service for their business subscribers. Those carriers have indicated that the cost of complying with this mandate would be small.

PREVIOUS CBO ESTIMATES

On March 15, 2006, CBO transmitted a cost estimate for H.R. 4943, the Prevention of Fraudulent Access to Phone Records Act, as ordered reported by the House Committee on Energy and Commerce on March 8, 2006. The two bills contain similar provisions related to the security of the personal information of telecommunications customers. CBO estimates that both bills would have similar costs for the FCC, but that S. 2389 would have slightly higher costs for the FTC to enforce the new laws and regulations and to conduct the media campaign in conjunction with the FCC.

H.R. 4943 is similar in scope to S. 2389 but does not contain any preemptions of state and local laws. The intergovernmental mandates statements reflect that difference.

The private-sector mandates contained in H.R. 4943 are very similar to some of the mandates in S. 2389. Both bills require telecommunications carriers to increase the protection of customer proprietary network information, provide timely notice to each customer upon breach of customer proprietary network information. Because the cost of mandates in both bills depends on rules to be prescribed by the FCC, CBO could not determine whether those costs would exceed UMRA's annual threshold for private-sector mandates.

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